



Lamoine Board of Selectmen

606 Douglas Hwy
Lamoine, ME 04605
(207) 667-2242
town@lamoine-me.gov

Minutes of December 16, 2010

Chair Jo Cooper called the meeting to order at 7:00 PM

Present were: Selectmen William Brann, Gary McFarland, Richard Fennelly Jr., Cynthia Donaldson, S. Josephine Cooper; Administrative Assistant Stu Marckoon, James Townley (Windsong Farms), Lorraine and Gaylord Sundt, Jim Dunning (Pine Tree Waste), Assessors Michael Jordan and Terry Towne, Keegan Wardwell-Burgus and Aaron Burgus.

Agenda Review – There was no change to the printed agenda or addendum

Minutes of December 2, 2010 – Richard moved to approve the minutes as printed. Cynthia 2nd. **Vote in favor was 5-0.**

Expenditure Warrant 12 – Selectmen signed warrant 12 for \$193,330.67. Cynthia asked what “CID” was. Stu explained that he purchased new Caller ID units for the telephones, as the other ones operated on batteries and went through them quickly.

Cash & Budget Report – Cynthia asked about the investment interest line, and whether there are times during the year that it is better or whether it had been over-budgeted. Stu said it's dependent on cash flow and the investment method by the First Advisors. He said he did a new cash flow analysis, and the investment manager has made some strategy changes to improve the return.

IRS Inquiry – Stu reported that a recent communication from the IRS indicated the town has sent an incorrect form to the IRS. He said the town's bond counsel sent the form and would take care of the remedy at no charge. He said the counsel called the IRS action “goofy”. He said he had drafted a letter to Senator Collins at the counsel's suggestion, but it's not ready for signature. Richard said he's interested in sending the letter. Stu said this is a draft only and the bond counsel wants to review it.

Bids – MSW Transportation and Recycling – Richard asked when the current contract expires. Stu said June 30, 2011. Cynthia asked if the town currently recycles mixed paper. Stu said not at the moment. Cynthia said the RFP would give the town the capacity to do that. Stu said that is correct.

Selectmen opened and read aloud the bids from the following:

MSW	Evergreen	Wright	Pine Tree	WFT	Harris
Year 1	\$30,666.60	\$30,515.00	\$30,987.48	\$29,000.00	\$31,197.00
Year 2	\$30,666.60	Above +cpi	Above +cpi	\$29,400.00	Above +cpi
Year 3	\$31,433.16	Above +cpi	Above +cpi	\$29,800.00	Above +cpi
Year 4	\$31,433.16	Above +cpi	Above +cpi	\$30,200.00	Above +cpi
Year 5	\$32,376.24	Above +cpi	Above +cpi	\$30,600.00	Above +cpi

Waste Management Inc. sent a letter to say they are not submitting a bid, but would like the results and may bid the next time around.

Several recycling proposals were included from Pine Tree, Mark Wright, and Harris. Cynthia asked about the 3rd option from Pine Tree Waste. Jim Dunning explained it was the zero sort option. A brief discussion followed. Jo said the town would make a spread sheet and analyze the bids and get back to the bidders.

Landfill Water Testing/Filter – Jo reported the Maine Department of Environmental Protection (DEP) has recommended that a water filter be purchased for one of the four homes at which the town conducts water testing. Stu provided a brief explanation, saying the manganese level for the well in question had exceeded a recommended action level. Keegan Wardwell-Burgus said they would be happy to have one installed.

Gaylord Sundt said he was concerned by the memorandum from the DEP. He said they were never notified that they should not be drinking the water, and he's concerned. Stu reported there has never been anything that showed in test results that indicated the water was not safe to drink. A short discussion followed about the memo from Robert Behr of the DEP to Robert Birk of the DEP. Mr. Sundt said he would like some clarification on the memo. Cynthia said the town would as well. Jo said it appears the DEP favors putting a filter on the one well in question. Mr. Sundt said the memo doesn't make any sense to him. He said the water has changed significantly at their home over the past 35-years. Jo said the town could look into the memo. Stu said he would write to Mr. Birk of the DEP. Richard said there seem to be some contradictions in the DEP's analysis.

Mrs. Wardwell-Burgus asked if the town would pay for bottled water until a filter is installed. Stu said that apparently is the case, and the DEP would reimburse the town for 90% of the bottled water, as well as 90% of the filter system.

Mr. Sundt said he has valuation questions, and doesn't want to end up like the Andersons who ended up selling their home to the town. He said he has concerns if he decides to sell his real estate.

Request for Legal Representation – Assessor – Assessor Terry Towne said Board Chair Jane Fowler was unable to attend this meeting. He said it appears the town will be brought back before the State Board of Property Tax Review (BPTR). He said they had given a 60-day notice to the parties in a tree growth withdrawal case to show the existence of a forest management plan, and could only see that there was a gap of 3-years in which a plan did not exist. He said the law mandates the Assessors to remove the property from the tree growth program.

Mr. Towne said they talked to attorney Ed Bearor regarding the previous hearing before the Property Tax Review Board and Mr. Bearor felt the BPTR made errors, and Mr. Towne listed some of those errors. He said it took a while for the assessors to get on the same page, but they feel at a disadvantage to go before the BPTR without legal help. He said town attorney Tony Beardsley has conflicts of interest, so they've sought

other legal options. He said because Mr. Bearor has some experience with the case, it would make sense to engage him. He said it would be unwise to go before the BPTR without counsel, as there is a lot of money at stake.

Mr. Towne said the Board of Assessors is unanimous on the matter. He said Jane Fowler and Mike Jordan have recently become certified Maine Assessors and he plans to re-take his tests next year. He said the Board of Assessors did a lot of research on the tree growth cases, and they made a sound decision.

Jo asked if they were requesting to use a particular attorney or just an attorney in general. Richard asked what the anticipated costs were. Mr. Towne said it would be about \$5,000. Richard asked if that included the preparatory work. Mr. Towne said the Town has already invested \$1,000 in the case. He said it could be a year before the town ends up back before the BPTR. He said he would like to get something in writing from Mr. Bearor and the Board of Assessors needs permission to talk to him.

Gary said if this will put the town on the road to resolving this matter, he favors it. He asked if that was the intention of the Board of Assessors. Mr. Towne said he doesn't want to see this go on forever and they're looking for equity. He said if a property meets the criteria to be valued under the tree growth program, it should be; but if it does not, it should not be classified as such. He restated that the Board was unanimous and feels the decision made to withdraw and deny tree growth status to the two properties involved was correct.

Mr. Jordan said there was no date set by the BPTR but the papers were filed with the board the other day. He said he doesn't want a lawyer to be rushed at the last minute. Mr. Towne said the town got very short notice the last time this case went before the BPTR. He said if both sides had been represented by counsel, the case likely would have been handled differently.

William asked how much there is to gain or lose. Mr. Towne said the town has collected \$86,000 in tree growth penalties already. Jo said it makes sense to her to have an attorney, but it's unfortunate that it costs so much. Richard said he understands that Mr. Towne disagrees with the previous decision from the BPTR. Mr. Towne said Mr. Bearor disagreed as well. Mr. Jordan said the State of Maine Property Tax Division indicated some disagreement. A short discussion followed.

Richard asked if the next BPTR decision goes against the town, would the Board of Assessors accept that decision or pursue it further. Mr. Towne said he would have to see at the time. Richard said if the Assessors cannot agree with the BPTR, the next step is court. Mr. Town said it depends on the BPTR decision, and they would have to come back and talk with the Selectmen.

Richard said he's not interested in chasing something that is a never ending story. He said if the BPTR finds the same as before, the decision would be to fight it or walk away. A brief discussion of the previous BPTR decision followed, along with discussions about potential costs, a potential agreement, and a history of the dispute.

Jo said the issue at hand is for legal representation. William said he was not sure how he was going to vote. He said he's concerned that the BPTR decision would not meet with satisfaction. Jo said the Board of Assessors is trying to limit costs. She suggested that maybe some limit could be placed to keep control of the costs. Mr. Jordan said the Board of Assessors would have to come back to the Selectmen if it went to court. Mr. Towne said he would agree to contact Mr. Bearor for some information and get back to the Selectmen. Gary said he would be more comfortable knowing some more cost information. Mr. Towne asked if the Selectmen wanted to know what specific defense would be made. Jo said she would prefer a cost estimate.

Mr. Towne said there has been some thought expressed about a negotiated settlement. A short discussion followed. Jo said if the Selectmen approve an attorney, they would like to know what the cost would be and to be able to put on the brakes at some point. Richard said he would like to see Mr. Bearor give some indication of probability of success in the case, an estimate of the cost, and a guaranteed maximum price. He said if Mr. Bearor is not comfortable giving that information, he's not willing to jump into this. Mr. Towne said Mr. Bearor was willing to provide that information earlier. William said the likelihood of success is important to him

Richard said when he's gone before the BPTR for his company he might not like the result, but accepts it. He said he doesn't like the notion of the power of taxpayer money being used against a resident of the town. William asked whether it's foolish to go to the BPTR without an attorney. A brief discussion followed about a previous BPTR case.

Jo moved to authorize the Assessors to seek the potential cost, the maximum cost, and the probability of success in the case from attorney Bearor. Cynthia 2nd. **Vote in favor was 5-0.**

Road Sign Requests – Stu reported that two residents had requested that signs be installed. One was for chevrons on the corner of Shore Road near Deer Run; the other was for a sign that indicates that Marlboro Beach Road does not go straight at the intersection with Raccoon Cove Road. Richard asked if there was a sign already at the Shore Road location. Stu said there is a curve sign posted just before that corner. Richard asked what the speed limit is on those roads. Stu said it was the default speed limit of 45 MPH.

There was a brief discussion about the accident history at these locations, and neither Mr. Jordan nor Stu (both firefighters) could recall any accident reports at either location in their 20+ years of experience. Cynthia said the town should respond to both parties and thank them for their concern, but that no action would be taken at this time.

Transfer Station Reconfiguration – Stu explained how the transfer station is now laid out. He said he'd had one complaint about the setup. Cynthia asked if safety is an issue with the new setup. William said it seems to be safer now. Jo said it's far more efficient.

Snow Blower Request – Stu reported that Transfer Station Manager Bill Fennelly had suggested purchasing a snow blower and it made a lot of sense for efficiency and safety. He said Mr. Fennelly had not yet gotten back to him with a price, but it should fit within the budget provided the amounts going to PERC stay lower than projected. There was a brief discussion about where to store the unit, and the bottle room seemed like the most logical place.

Household Hazardous Waste Collection – Stu reported that the program this past October was popular with Lamoine residents, and he limited the number of permits to ten to try to stay close to the budget. He said it went slightly over budget.

Budget – Jo said the Budget Committee seems to have handled the budget process well. William said he was impressed with the amount of work the committee did. Gary said it takes a lot of time and there is a lot of detailed work.

Joint Planning Board Meeting Follow Up – Jo said it was an interesting meeting and she was glad to see notes from it. She said it was a good first step. Cynthia said she would underline the word “first”, as there needs to be an ongoing conversation. Gary agreed it was a good beginning. Stu asked if there were any tasks to follow up on. Jo said there was discussion about forming a 6 to 8 person committee to look at long range planning. She said the Planning Board has too much on its agendas which leaves them no time to plan. She said both things are important. She said a committee should be formed and the Planning Board should be encouraged to meet with the Selectmen at least once a year, or more often. Cynthia said it’s a misconception to think that the Planning Board does planning. Richard said maybe there ought to be two arms for the Planning Board – one to carry out the business required by ordinance and one for actual planning. A short discussion followed regarding the possibility of a town planner and what role the Code Enforcement Officer plays.

Jo said it should be up to the Planning Board and the Selectmen to think about personnel for the new committee. Cynthia said one thing might be to revisit the Comprehensive Plan. Jo said this issue should be kept on the agenda.

Richard noted that one obstacle to business in town might be the sign ordinance. A very brief discussion followed.

General Office Policy/Job Descriptions – Jo said she is working her way through reviewing the documents.

Town Report – Cover – There was a discussion about a draft of a cover. The Board felt one scenic picture as opposed to a collage would be better.

Dedication – There was no objection dedicating the report to two prominent citizens who passed away during 2010.

Citizen of the Year – Selectmen said they would give some thought to this. Cynthia submitted a written suggestion.

Printer – Selectmen favored getting a price from the printer for the past two years and if it's reasonable again, going with that.

Lamoine Quarterly – Stu reported he'd prepared a good deal of the paper already and it was in the packet tonight. Cynthia said she was concerned that people are not finding out about things going on in town, such as last week's school forum. She suggested putting an article in the quarterly to encourage people to sign up for the "list-serve" the town provides. There was a brief discussion about publicity.

Resolve – Selectmen signed a certificate honoring Gerald and Mildred Jordan on their 50th anniversary.

Returnables – Jo moved to assign the returnables to the Conservation Commission during March of 2011. Cynthia 2nd. **Vote in favor was 5-0.**

Communications from Bureau of Parks and Lands – Richard said it seems to make sense to comply with their request to place a laminated notice at Lamoine Beach Park. Stu said he did that a while ago, but it was stolen.

Communication from Department of Marine Resources – Stu asked if the City of Ellsworth would be taking care of the reporting required by the Department of Marine Resources in regard to the Shellfishing Enforcement Program. Richard said he didn't know but he believed the reports would be generated by the Shellfish Committee. He said he would speak to Hannah Annis of the DMR about it.

Next Meeting – The next regular meeting for the Board of Selectmen will be January 6, 2011.

There being no further business, the meeting adjourned at 8:35 PM

Respectfully submitted,

Stu Marckoon, Adm. Asst.